

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition for rate increase by Florida ) DOCKET NO. 20210015-EI  
Power & Light Company )  
\_\_\_\_\_ )

**FLORIDA RISING’S MOTION FOR LEAVE TO REPLY TO  
PROPOSED RESPONSE OF FLORIDA POWER & LIGHT TO  
PETITION TO INTERVENE BY FLORIDA RISING, ECOSWF, & LULAC**

Florida Rising, through its undersigned counsel, respectfully submits this motion for leave to reply pursuant to Rule 28-106.204, Florida Administrative Code, to Florida Power & Light Company’s (“FPL”) Proposed Response to the Petition to Intervene of Florida Rising, the League of United Latin American Citizens, and the Environmental Confederation of Southwest Florida (attached as Exhibit 1 to the FPL Motion for Leave) (hereinafter “FPL Response”), and in support thereof states:

On March 1, 2021, Florida Power & Light Company filed a Motion for Leave to File a Response to the Petition to Intervene of Florida Rising, the League of United Latin American Citizens (“LULAC”), and the Environmental Confederation of Southwest Florida (“ECOSWF”). This motion for leave to file a response was not opposed, but Florida Rising does oppose the substance of the FPL response, especially as it relates to FPL’s allegations that Florida Rising’s mission to advance “economic, and racial justice” . . . is an “organizational aim [that is] well outside of the rate-setting issues.” FPL Response at 6-7. As FPL represented that it took no position on Florida Rising’s intervention (*see* e-mail from counsel for FPL, attached as Exhibit 1), good cause exists for Florida Rising to explain the connection between its organizational mission of economic justice and lawful rate-setting—that is establishing fair, just, and reasonable rates—in greater detail. Allowing Florida Rising to file the proposed reply (attached as Exhibit 2) will help clarify how Florida Rising’s mission of fighting for the economic justice of its

members, including its many members who are FPL customers, is related to the fair, just, and reasonable rates that the Commission will be determining as part of this proceeding.

In its proposed reply, Florida Rising also asks, should the Commission enter any order accepting FPL's reasoning that an organizational aim to fight for the economic justice of its members is outside the scope of a proceeding setting fair, just, and reasonable rates, that it do so without prejudice. Although Florida Rising filed a Petition to Intervene as an association representing the interests of its members, *see Fla. Home Builders Ass'n v. Dep't of Labor and Employ. Sec.*, 412 So. 2d 351, 353-54 (Fla. 1982), Florida Rising is itself a customer of FPL and is facing higher rates (and higher electricity bills) as a result of this proceeding. Therefore, should the Commission find merit in FPL's arguments that Florida Rising's mission of seeking economic justice for its members is an organizational aim that is not related to the fair, just, and reasonable rate-setting issues that will be at issue during this rate case, Florida Rising would wish to amend its Petition to Intervene to include, as the basis for standing, Florida Rising's standing in its own right as a corporate organization facing higher bills. FPL is seeking an approximately \$2 billion rate increase, which will be, in part, paid for by Florida Rising, Inc. as a customer of FPL. FPL itself recognized the right of individual FPL customers to intervene in this proceeding in its response. If the Commission is inclined to deny Florida Rising's intervention on the basis of representing its member's interests, then Florida Rising should be permitted to amend its petition to intervene as an individual customer.

Florida Rising has conferred with FPL and the undersigned is authorized to represent that FPL does not oppose this motion for leave to file a reply.

RESPECTFULLY SUBMITTED this 8th day of March, 2021.

/s/ Bradley Marshall  
Florida Bar No. 0098008

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*Counsel for Florida Rising*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true copy and correct copy of the foregoing was served on this 8th day of March, 2021, via electronic mail on:

Biana Lherisson Jennifer Crawford Shaw Stiller Suzanne Brownless Florida Public Service Commission Office of the General Counsel 2540 Shumard Oak Boulevard Tallahassee, Florida 32399-0850 blheriss@psc.state.fl.us jcrawfor@psc.state.fl.us sstiller@psc.state.fl.us sbrownle@psc.state.fl.us	R. Wade Litchfield John T. Burnett Russell Badders Maria Jose Moncada Ken Rubin Joel T. baker Florida Power & Light Co. 700 Universe Blvd. Juno Beach, FL 33408-0420 wade.litchfield@fpl.com john.t.burnett@fpl.com russell.badders@nexteraenergy.com maria.moncada@fpl.com ken.rubin@fpl.com joel.baker@fpl.com
Jon C. Moyle, Jr. Karen A. Putnal Moyle Law Firm, P.A. 118 North Gadsden St. Tallahassee, FL 32301 jmoyle@moylelaw.com kputnal@moylelaw.com mqualls@moylelaw.com	Parry A. Christensen Charles Rehwinkel Office of Public Counsel c/o The Florida Legislature 111 W. Madison Street, Room 812 Tallahassee, FL 32399-1400 christensen.patty@leg.state.fl.us rehwinkel.charles@leg.state.fl.us
Kenneth Hoffman 134 West Jefferson St. Tallahassee, FL 32301-1713 ken.hoffman@fpl.com	

DATED this 8th day of March, 2021.

/s/ Bradley Marshall  
Attorney

# Exhibit 1

## Bradley Marshall

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**From:** Burnett, John T. <john.t.burnett@fpl.com>  
**Sent:** Thursday, February 18, 2021 2:25 PM  
**To:** Bradley Marshall  
**Cc:** will.p.cox@fpl.com; ken.rubin@fpl.com  
**Subject:** RE: Dkt: 20210015-EI - FPL Rate Case Intervention

Hi Bradley. FPL takes no position on the intervention. Thanks, John

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**From:** Bradley Marshall <bmarshall@earthjustice.org>  
**Sent:** Thursday, February 18, 2021 1:53 PM  
**To:** Burnett, John T. <John.T.Burnett@fpl.com>  
**Cc:** Cox, Will P. <Will.P.Cox@fpl.com>; Rubin, Ken <Ken.Rubin@fpl.com>  
**Subject:** Dkt: 20210015-EI - FPL Rate Case Intervention

Hello John,

I hope you are doing well. I'm not sure who is FPL's lead counsel for the rate case, but we will be filing a petition to intervene on behalf of the League of United Latin American Citizens of Florida, the Environmental Confederation of Southwest Florida, and Florida Rising, and am reaching out to get FPL's position on their intervention. Thank you.

Best,  
Bradley

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# Exhibit 2

**BEFORE THE FLORIDA PUBLIC SERVICE COMMISSION**

In re: Petition for rate increase by Florida )      Docket No. 20210015-EI  
Power & Light Company )  
\_\_\_\_\_ )

**REPLY TO FLORIDA POWER & LIGHT COMPANY’S RESPONSE TO  
PETITION TO INTERVENE OF FLORIDA RISING,  
THE LEAGUE OF UNITED LATIN AMERICAN CITIZENS, AND  
THE ENVIRONMENTAL CONFEDERATION OF SOUTHWEST FLORIDA**

Florida Rising, through its undersigned counsel, respectfully submits this reply to Florida Power & Light Company’s (“FPL”) Response to the Petition to Intervene of Florida Rising, the League of United Latin American Citizens, and the Environmental Confederation of Southwest Florida (“FPL Response”), and in support thereof states:

**I. Florida Rising’s Mission is Directly Implicated by Rate-Setting Activities**

FPL is incorrect in its contention that the organizational aims of Florida Rising, as expressed in the petition, are not related to issues within the Commission’s jurisdiction and that the relief requested is not the appropriate type for the association to receive on behalf of its members, and that Florida Rising therefore fails the *Florida Home Builders* test. FPL Response at 6-7; see *Fla. Home Builders Ass’n v. Dep’t of Labor & Employment Sec.*, 412 So. 2d 351, 353-54 (Fla. 1982). As FPL acknowledges, Florida Rising stated in its Petition to Intervene that its mission is to build a “movement with individuals” “to advance social, economic, and racial justice.” FPL Response at 6-7. FPL maintains that these “organizational aims are well outside of the rate-setting issues that will be decided in this proceeding, and, moreover, relate to interests that are beyond the Commission’s jurisdiction.” FPL Response at 7. Unhelpfully, FPL fails to explain why economic justice is not implicated by a proceeding determining “fair, just, and



reasonable rates.” *See, e.g.*, § 366.06(1), Fla. Stat. Florida Rising will attempt to explain why fair, just, and reasonable rates implicate such concerns as social, economic, and racial justice.

“Just” is defined by Black’s Law Dictionary as “legally right; lawful; equitable.” Black’s Law Dictionary (11th ed. 2019). The directive to make fair, just, and reasonable rates therefore includes the concept of ensuring equitable rates. In turn, “equitable” is defined as “Just, consistent with principles of justice and right.” *Id.* Black’s Law Dictionary defines “justice” as “1. The fair treatment of people” or “2. The quality of being *fair* or *reasonable*,” *id.* (emphasis added), and Merriam-Webster similarly defines it as “the quality of being just, impartial, or fair.”<sup>1</sup> In the context used in Florida Rising’s mission and the statute, “just” and “justice” have virtually the same meaning, with “justice” being a noun and “just” being an adjective. “Economic” is defined as “of, relating to, or based on the production, distribution, and consumption of goods and services.”<sup>2</sup>

Therefore, said differently, Florida Rising’s mission includes fighting for and ensuring that its members receive fair, just, and reasonable (from the definition of “justice”) costs of services (from the definition of “economic”). Electric rates, at issue in this proceeding, are the cost of electricity service. Ensuring “fair, just, and reasonable rates,” as at issue in this rate-setting proceeding, is therefore not only within Florida Rising’s general scope of interest and activity, it virtually meets the dictionary definition of Florida Rising’s mission of fighting for economic justice for its members. Other than an explicit organizational mission to fight for “fair, just, and reasonable rates”—verbatim—it is hard to imagine a more germane organizational mission for the interests implicated in this proceeding than one aiming to ensure “economic justice” for its members. It is notable that the term “fair, just, and reasonable rates” appears

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<sup>1</sup> <https://www.merriam-webster.com/dictionary/justice> (second definition).

<sup>2</sup> <https://www.merriam-webster.com/dictionary/economic>.

nowhere in FPL’s response, which instead merely alludes to “rate-setting issues,” FPL Response at 7, as though the key term for the Commission to consider in this proceeding did not exist.

Although FPL states that it would not oppose the intervention of individual members of Florida Rising, FPL Response at 7, such an onerous requirement underlies the very reason associations have been granted standing to represent the interests of their members. As the Florida Supreme Court has noted, “[w]hile it is true that the ‘substantially affected’ members of the . . . association could individually seek [to intervene], the cost of instituting and maintain a . . . proceeding may be prohibitive for small [participants].” *Fla. Home Builders*, 412 So. 2d at 353. Those principles apply with equal force here—Florida Rising should be able to represent the interests of its members in receiving fair, just, and reasonable rates, rather than requiring the participation of individual members of Florida Rising.

In fact, the Commission has consistently granted intervention to associations representing their members in rate base proceedings for the purpose of ensuring that the new rates their members will ultimately pay are fair, reasonable, and just, or similar mission-based language such as that of Florida Rising. On the basis that “increases in the costs of electricity directly affect their [members’] monthly electric bills” (or substantially the same language), the Commission granted intervention in the most recent FPL rate case to the AARP, Florida Retail Federation, South Florida Hospital and Healthcare Association, Federal Executive Agencies, and Florida Industrial Power Users Group. *In re: Petition for rate increase by Florida Power & Light Company*, Docket No. 160021-EI, Order No. PSC-16-0180-PCO-EI at 3 (Fla. P.S.C. May 4, 2016), Order No. PSC-16-0181-PCO-EI at 3 (Fla. P.S.C. May 4, 2016), Order No. PSC-16-0158-PCO-EI at 2 (Fla. P.S.C. May 4, 2016), Order No. PSC-16-0157-PCO-EI at 2 (Fla. P.S.C. April 21, 2016), & Order No. PSC-16-0132-PCO-EI at 2 (Fla. P.S.C. April 4, 2016). The alleged

general scope of interests and activities of these intervenors was similar to Florida Rising’s mission of fighting for economic justice of its members. Florida Retail Federation Petition to Intervene at 5, (Fla P.S.C. Apr. 26, 2016) (The Florida Retail Federation “exists to represent its members’ interests in a number of venues.”); Order Granting AARP’s Petition to Intervene at 2, Order No. PSC-16-0180-PCO-EI (Fla. P.S.C. May 4, 2016) (“AARP is an association which acts as an advocate on behalf of its members on several social and economic issues, including electric utility rates.”); Petition to Intervene of South Florida Hospital and Healthcare Association at 3 (Fla. P.S.C. Apr. 8, 2016) (“SFHHA exists . . . to act as an advocate, facilitator and educator for its members and advocates the interests of its member organizations to elected and government officials, such as the Commission.”). FPL did not object to the intervention of any of these associations, nor did it challenge their standing based on the anticipated rate impacts to their memberships.

The Commission also granted intervention to the League of Women Voters of Florida (“LWMF”) in the last Gulf rate base proceeding due to the direct and substantial effects increases in electricity bills would have on its members. *Petition for rate increase by Gulf Power Company*, Docket No. 160186-EI, Order No. PSC-16-0585-PCO-EI at 3 (Fla. P.S.C. Dec. 30, 2016). In its decision, this Commission recognized that a rate case fell “within the LWVF’s general scope of interest and activity” due to its mission to “encourage participation in government, to increase understanding of major public policy issues, and to influence public policy through education and advocacy.” *Id.*

Similarly, recognizing its “interest in seeing that the Commission ensures . . . that low income consumers receive the lowest rates possible,” the Commission granted intervention to the NAACP during the 2014 FEECA Proceedings. *In re: Commission review of numeric*

*conservation goals (Florida Power & Light Company); In re: Commission review of numeric conservation goals (Duke Energy Florida, Inc.); In re: Commission review of numeric conservation goals (Tampa Electric Company); In re: Commission review of numeric conservation goals (Gulf Power Company); In re: Commission review of numeric conservation goals (JEA)*, Dockets No. 130199-EI – 130203-EM, Order No. PSC-14-0356-PHO-EU at 11 (July 11, 2014) [Collectively, “2014 FEECA Proceedings”]. FPL did not object to NAACP’s intervention. *See* 2014 FEECA Proceedings, Prehearing Conference Transcript at 10-12 (Fla. P.S.C. July 3, 2014), <http://www.psc.state.fl.us/library/filings/2014/03475-2014/03475-2014.pdf>.

In addition to dismissing Florida Rising’s mission of fighting for economic justice as not being within the scope contemplated in this proceeding and not being the appropriate type of relief for the association to receive on behalf of its members, FPL also challenges Florida Rising’s mission to fight for climate justice and a just transition to clean energy as outside the scope of this proceeding. FPL Response at 7. However, these types of environmental interests have long been recognized by the Commission as a basis to intervene in rate cases. The Sierra Club, in its petition to intervene in a prior FPL base rate proceeding, had the goal “to transition electric utilities away from burning fossil fuels and toward low cost, low risk clean energy alternatives.” Order No. PSC-16-0299-PCO-EI at 1. Having similar interests to Florida Rising’s just transition goals, Sierra Club was granted intervention based on the Commission’s finding that its “members’ substantial interests [were] affected since increases in the cost of electricity directly affect their monthly electric bills.” *Id.* at 2. Similarly, SACE was granted intervention over Gulf Power Co.’s opposition in the last Gulf Power rate case, as its “purpose of advocating for the use of clean energy alternatives to mitigate fossil fuel generation, for which recovery is sought in this rate case” was sufficient to make the subject matter of the proceeding “within the

SACE’s general scope of interest and activity.” *In re: Petition for rate increase by Gulf Power Company*, Docket No. 160186-EI, Order No. PSC-16-0550-PCO-EI at 4 (Fla. P.S.C. Dec. 8, 2016). The same interests are asserted by Florida Rising in this proceeding, and FPL fails to address, or distinguish, these Commission orders in its response. FPL, in this proceeding, will be seeking the recovery for investments in fossil-fuel generation that have not been approved elsewhere, including for Crist Unit 8, as well as the conversion of Crist Units 4-7 from coal to gas. Gulf Power/FPL, in response to a question from staff, noted that a concurrent proceeding regarding the retirement of coal assets at Crist “would still allow the Commission to review, without prejudice, in the Company’s next base rate proceeding whether the conversion to natural gas for Crist Units 4-7 was reasonable and prudent.” *Re: Petition for approval of regulatory assets related to the retirements of the coal generation assets at Plant Crist Units 4, 5, 6, and 7, by Gulf Power Company*, Docket No. 20200242-EI, Gulf Power Company’s Responses to Staff’s Fourth Data Request (Nos. 1-5) (Fla. P.S.C. Jan. 5, 2021), *available at* <http://www.psc.state.fl.us/library/filings/2021/00488-2021/00488-2021.pdf> (response to Staff’s Fourth Data Request, Request No. 1). The prudence of this and other investments in fossil-fuel generation will be at issue in this proceeding, and therefore, Florida Rising’s mission to fight for climate justice and a just transition, while fighting for economic justice for its members, is squarely implicated.

As demonstrated here, the subject matter of this proceeding is well within Florida Rising’s general scope of interest and activity, hence, why Florida Rising wishes to participate in this case and why Florida Rising has participated in other matters before the Commission (albeit not as a party). The relief requested, ensuring fair, just, and reasonable rates, is also appropriate for Florida Rising to request on behalf of its members given its mission of fighting for economic

justice. However, if the Commission finds any merit in FPL's arguments that the subject matter of this proceeding is not within Florida Rising's general scope of interest and activity, Florida Rising asks that such an order denying intervention be done without prejudice. Although Florida Rising filed a Petition to Intervene as an association representing the interests of its members, Florida Rising is itself a customer of FPL and is facing higher rates (and higher electricity bills) as a result of this proceeding. Therefore, should the Commission find merit in FPL's arguments that Florida Rising's mission of seeking economic justice for its members is an organizational aim that is not related to the fair, just, and reasonable rate-setting issues that will be at issue during this rate case, Florida Rising would wish to amend its Petition to Intervene to include, as the basis for standing, Florida Rising's standing in its own right as a corporate organization facing higher bills. As FPL is seeking an approximately \$2 billion rate increase, this rate increase will be, in part, paid for by Florida Rising, Inc., as a customer of FPL. FPL itself recognized the right of individual FPL customers to intervene in this proceeding in its response. If the Commission is inclined to deny Florida Rising's intervention on the basis of representing its member's interests, then Florida Rising should be permitted to amend its petition to intervene as an individual customer.

RESPECTFULLY SUBMITTED this 8th day of March, 2021.

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*Counsel for Florida Rising*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true copy and correct copy of the foregoing was served on this 8th day of March, 2021, via electronic mail on:

Biana Lherisson Jennifer Crawford Shaw Stiller Suzanne Brownless Florida Public Service Commission Office of the General Counsel 2540 Shumard Oak Boulevard Tallahassee, Florida 32399-0850 blheriss@psc.state.fl.us jcrawfor@psc.state.fl.us sstiller@psc.state.fl.us sbrownle@psc.state.fl.us	R. Wade Litchfield John T. Burnett Russell Badders Maria Jose Moncada Ken Rubin Joel T. baker Florida Power & Light Co. 700 Universe Blvd. Juno Beach, FL 33408-0420 wade.litchfield@fpl.com john.t.burnett@fpl.com russell.badders@nexteraenergy.com maria.moncada@fpl.com ken.rubin@fpl.com joel.baker@fpl.com
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DATED this 8th day of March, 2021.

/s/ Bradley Marshall  
Attorney